

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:12-cv-177-RJC-DSC**

**JOSEPH T. WEATHERS,**

**Plaintiff,**

**v.**

**LIBERTY LIFE ASSURANCE  
COMPANY OF BOSTON,**

**Defendant.**

**ORDER**

**THIS MATTER** is before the Court on Defendant Liberty Life Assurance Company of Boston's ("Liberty Life") Partial Motion to Dismiss, filed on May 3, 2012. (Doc. No. 5). In its Motion, Liberty Life "seeks to dismiss the Second Claim for Relief in the Complaint, which asserts a claim for breach of fiduciary duty, presumably pursuant to 29 U.S.C. § 1132(a)(3) of the Employee Retirement Income Security Act of 1974." (*Id.* at 1). On May 9, 2012, Plaintiff Joseph T. Weathers filed a Notice of Voluntary Dismissal, (Doc. No. 6), voluntarily dismissing his second claim for relief.

**IT IS, THEREFORE, ORDERED** that Liberty Life's Partial Motion to Dismiss, (Doc. No. 5), is **DISMISSED AS MOOT**.

Signed: May 18, 2012



Robert J. Conrad, Jr.  
Chief United States District Judge

